

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

STATE OF NEBRASKA	)	4:08CV3030
ex rel. SYLVIA A. BONNER,	)	
	)	
Plaintiff,	)	<b>MEMORANDUM</b>
v.	)	<b>AND ORDER</b>
	)	
FREDERICK E. McSWINE,	)	
	)	
Defendant.	)	

The defendant has filed a motion for leave to proceed in forma pauperis on appeal (filing 18). While it appears that the defendant is unable to pay the appeal fee, he has previously been advised by the court that the remand order he is seeking to appeal was made pursuant to 28 U.S.C. § 1447(c), and is not appealable. *See Roberts v. BJC Health System*, 452 F.3d 737, 739 (8th Cir. 2006) (“When a district court remands a case based on a lack of subject matter jurisdiction under section 1447(c), a court of appeals lacks jurisdiction to entertain an appeal of the remand order. Thus, when a case is remanded under section 1447(c), the remand order must stand whether erroneous or not and whether review is sought by appeal or by extraordinary writ.”) (citations and internal quotations omitted). I therefore find that the defendant’s notice of appeal (filing 16) was not filed in good faith, and will deny his motion for leave to appeal in forma pauperis.

IT IS ORDERED that the defendant’s motion for leave to appeal in forma pauperis (filing 18) is denied. The clerk shall forward a copy of this memorandum and order to the Clerk of the United States Court of Appeals for the Eighth Circuit.

April 14, 2008.

BY THE COURT:

*s/ Richard G. Kopf*  
United States District Judge